IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO. 429 OF 2006

Mahesh Ratilal Shah ... Petitioner

Versus

Union of India and Ors. ...Respondents.

Mr. M.L. Sharma for the petitioner.

Mr. P.N. Mody with Mr. Sagar Divekar, instructed by M/s. Wadia Ghandy & Co., for respondent No.2.

Mr. Dipen Merchant, Senior Advocate, with Mr. Ravi Hegde, instructed by M/s. Shaunak Satpute & Co. for respondent No.3.

WITH

WRIT PETITION (LODGING) NO. 136 OF 2006

M.R. Shah ... Petitioner

versus

Bombay Stock Exchange Ltd. and Anr. ... Respondents

Mr. M.L. Sharma for the petitioner.

Mr. Dipen Merchant, Senior Advocate, with Mr. Ravi Hegde, instructed by M/s. Shaunak Satpute & Co. for respondent No.1.

Mr. P.N. Mody with Mr. Sagar Divekar, instructed by M/s. Wadia Ghandy & Co., for respondent No.2.

CORAM: **KSHITIJ R. VYAS, C.J.** &
S.C. DHARMADHIKARI, J.
DATE: MARCH 01, 2006.

P.C.

In Writ Petition (Lodging)No. 429 of 2006, the petitioner,who is a sub-broker, invokes the jurisdiction of this Court under Article 226 of the Constitution of India, praying that a writ, order or direction be issued to Respondent Nos. 1 and 2 to withdraw recognition of Bombay Stock Exchange due to non-compliance of conditions precedent for recognition as provided under Sections 4 and 9 of the Securities Contract (Regulation) Act, 1956, and further that Securities Exchange Board of India should cancel the registration of 90 members of the Stock Exchange due to their fraudulent act of inducement of forged scrip transactions in a Company called Presto Finance. The other prayers are incidental to these main prayers.

2. However, during the course of his arguments, the learned counsel appearing for the petitioner, prays that this Court should issue a writ or direction declaring rules, bye-laws and regulations of Bombay Stock Exchange as illegal, void and ultra vires the parent Act and the Constitution of India.

3. After hearing counsel appearing for the petitioner at some

length and a perusal of the writ petition, which is lacking in all particulars pertaining to the constitutional challenge, we are of the view that jurisdiction under Article 226 of the Constitution of India is not an appropriate remedy for the petitioner who, along with a member of the Stock Exchange, traded in the shares of the above mentioned Company. Upon complaints made to SEBI, action has been initiated against the Company way back in 1998-99 and that is what a communication dated 2nd January, 2006, addressed by SEBI to the Advocate for the petitioner, proceeds to set out. SEBI passed an order under Section 11 B of the SEBI Act, 1992 and the SEBI has held that all Directors of the Company including one Hitendra Vasa are guilty of dealing in fake and bogus shares and cheating investing public at large.

4. The Market Regulator has taken steps in the matter of individual transactions. The remedy of the petitioner, who is aggrieved by the acts of the promoters of the Company in question as well as its Directors, is to approach an appropriate Civil Court and also to initiate criminal prosecution, if he is of the view that investing public at large is cheated and offences punishable under penal laws have been committed.

5. It would not be appropriate to issue any blanket writ as claimed by the petitioner when admittedly his case is restricted to dealings in shares of one of the Companies listed at the Stock Exchange. No material is produced to issue a direction to de-recognise the Exchange or to declare rules, bye-laws and regulations of the Bombay Stock Exchange as illegal, void and ultra vires. The petition is summarily dismissed.

6. In Writ Petition (Lodging) No. 136 of 2006, which is heard along with Writ Petition (Lodging) No. 429 of 2006, the petitioner has prayed that he be compensated for the transaction in the shares of the above mentioned Company. Writ Petition is not an appropriate remedy to go into several disputed questions of facts and claim for damages and compensation cannot be adjudicated in limited jurisdiction of this Court. The second petition is also, therefore, summarily dismissed.

CHIEF JUSTICE

S.C. DHARMADHIKARI, J.